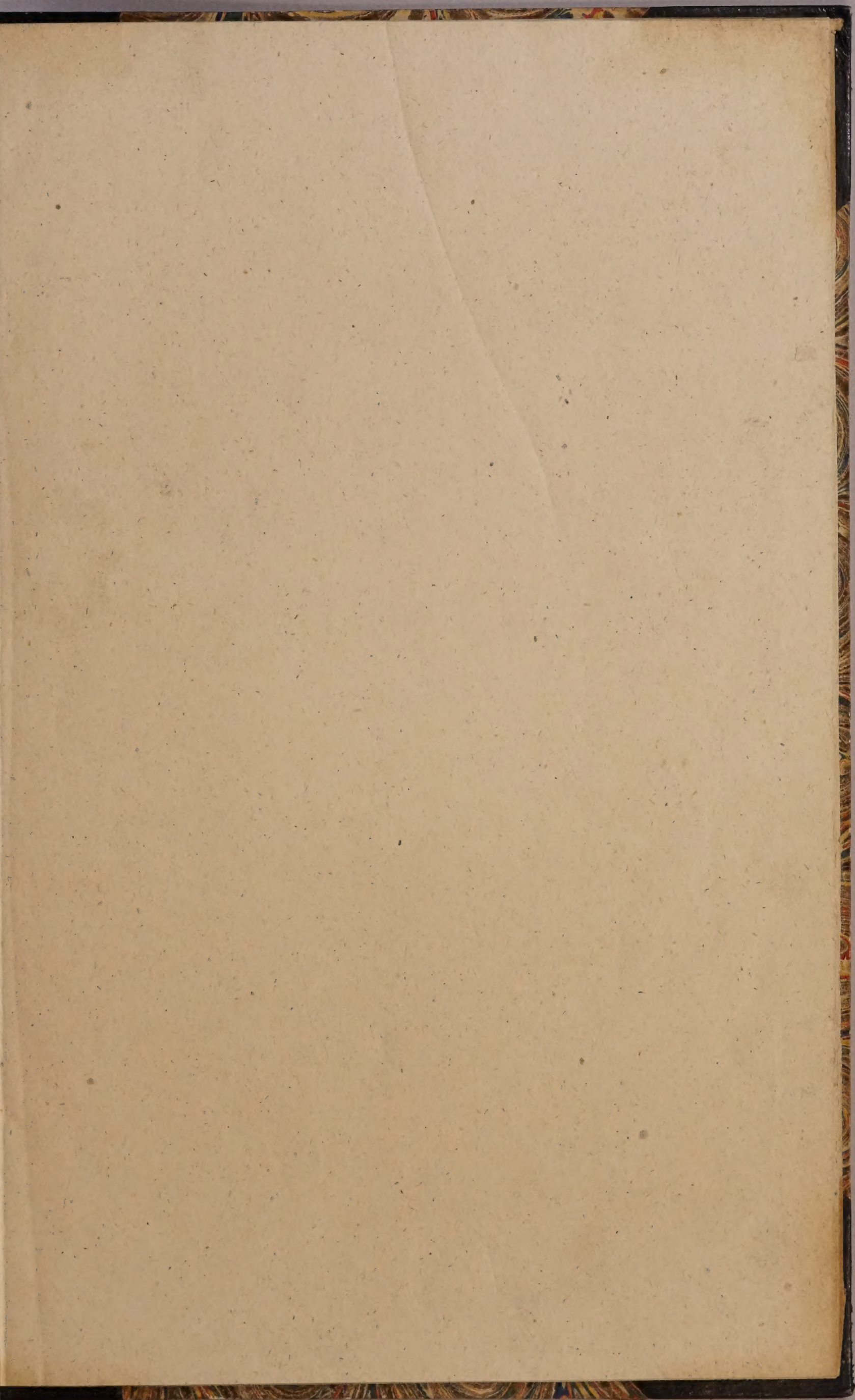






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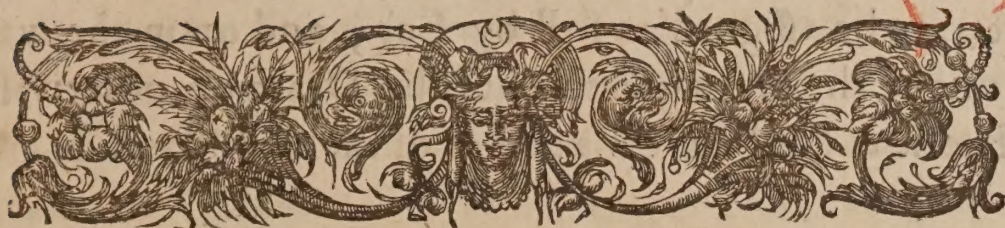
THE
FUNDAMENTAL
CONSTITUTIONS
OF
CAROLINA.

See date on page 25.

1669.

THE
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CONSTITUTIONS
OF
CAROLINA

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THE
Fundamental Constitutions
OF
CAROLINA.



OUR SOVERAIGN LORD THE KING having out of His Royal Grace and Bounty, granted unto us the Province of *Carolina*, with all the Royalties, Proprieties, Jurisdictions, and Priviledges of a *County Palatine*, as large and ample as the *County Palatine* of *Durham*, with other great Priviledges; for the better settlement of the Government of the said Place, and establishing the Interest of the *Lords Proprietors* with Equality, and without Confusion, and that the Government of this Province may be made most agreeable to the *Monarchy* under which we live, and of which this Province is a part; and that we may avoid erecting a numerous *Democracy*, we the *Lords* and *Proprietors* of the Province aforesaid, have agreed to this following Form of Government, to be perpetually established amongst us, unto which we do oblige our selves, our Heirs and Successors, in the most binding ways that can be devised.

THE eldest of the *Lords Proprietors* shall be *Palatine*; and upon the Decease of the *Palatine*, the eldest of the seven surviving *Proprietors* shall always succeed him. §. 1.

There shall be seven other chief Offices erected, viz. the *Admirals*, *Chamberlains*, *Chancellors*, *Constables*, *Chief Justices*, *High Stewards*, and §. 2.

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Treasurers ; which Places shall be enjoyed by none but the *Lords Proprietors*, to be assigned at first by Lot ; and upon the vacancy of any one of the seven great Offices by Death or otherwise, the eldest *Proprietor* shall have his choice of the said Place.

§. 3. The whole Province shall be divided into *Counties* ; each *County* shall consist of eight *Signiories*, eight *Baronies*, and four *Precincts* ; each *Precinct* shall consist of six *Colonies*.

§. 4. Each *Signiory*, *Barony*, and *Colony*, shall consist of twelve thousand Acres, the eight *Signories* being the Share of the eight *Proprietors*, and the eight *Baronies* of the *Nobility*, both which Shares being each of them one fifth part of the whole, are to be perpetually annexed, the one to the *Proprietors*, the other to the hereditary *Nobility*, leaving the *Colonies*, being three Fifths, amongst the People ; that so in Setting out, and Planting the Lands, the *Ballance* of the Government may be preserved.

§. 5. At any time before the Year One thousand seven hundred and one, any of the *Lords Proprietors* shall have power to Relinquish, Alienate, and Dispose to any other Person, his *Proprietorship*, and all the *Signiories*, Powers, and Interest thereunto belonging, wholly and intirely together, and not otherwise. But after the Year One thousand seven hundred, those who are then *Lords Proprietors*, shall not have power to Alienate or Make over their *Proprietorship*, with the *Signiories* and Priviledges thereunto belonging, or any part thereof, to any Person whatsoever, otherwise than as in §. 18. but it shall all Descend unto their *Heirs Male* ; and for want of *Heirs Male*, it shall all Descend on that *Landgrave* or *Cassique* of *Carolina*, who is Descended of the next *Heirs Female* of the said *Proprietor* ; and for want of such *Heirs*, it shall Descend on the next *Heir general* ; and for want of such *Heirs*, the remaining seven *Proprietors* shall upon the Vacancy, chuse a *Landgrave* to succeed the deceased *Proprietor*, who being chosen by the majority of the seven surviving *Proprietors*, he and his *Heirs* successively shall be *Proprietors*, as fully to all intents and purposes as any of the rest.

That

That the number of eight Proprietors may be constantly kept ; §. 6.
if upon the vacancy of any Proprietorship, the seven surviving Proprietors shall not chuse a Landgrave to be a Proprietor, before the second biennial Parliament after the Vacancy ; then the next biennial Parliament but one after such Vacany, shall have power to chuse any Landgrave to be Proprietor.

Whosoever after the Year One thousand seven hundred, either §. 7.
by Inheritance or Choise, shall succed any Proprietor in his Proprietorship, and Signiories thereunto belonging, shall be obliged to take the Name and Arms of that Proprietor whom he succeeds ; which from thenceforth shall be the Name and Arms of his Family and their Posterity.

Whatsoever Landgrave or Cassique shall any way come to be a §. 8.
Proprietor, shall take the Signiories annexed to the said Proprietorship ; but his former Dignity, with the Baronies annexed, shall devolve into the Hands of the Lords Proprietors.

There shall be just as many Landgraves as there are Counties, and §. 9.
twice as many Cassiques, and no more. These shall be the hereditary Nobility of the Province, and by right of their Dignity be Members of Parliament. Each Landgrave shall have four Baronies, and each Cassique two Baronies, hereditarily and unalterably annexed to, and settled upon the said Dignity.

The first Landgraves and Cassiques of the twelve first Counties to be §. 10.
Planted, shall be nominated thus ; that is to say, of the twelve Landgraves the Lords Proprietors shall each of them separately for himself, nominate and chuse one ; and the remaining four Landgraves of the first twelve, shall be nominated and chosen by the Palatine's Court. In like manner of the twenty four first Cassiques, each Proprietor for himself shall nominate and chuse two, and the remaining eight shall be nominated and chosen by the Palatine's Court ; and when the twelve first Counties shall be Planted, the Lords Proprietors shall again in the same manner nominate and chuse twelve more Landgraves, and twenty four Cassiques for the twelve

next *Counties* to be Planted; that is to say, two Thirds of each number by the single nomination of each *Proprietor* for himself, and the remaining one Third by the joynt *Election* of the *Palatine's Court*, and so proceed in the same manner till the whole *Province of Carolina* be Set out and Planted, according to the Proportions in these FUNDAMENTAL CONSTITUTIONS.

§. 11. Any *Landgrave* or *Cassique* at any time before the Year One thousand seven hundred and one, shall have power to *Alienate*, *Sell*, or *Make over* to any other Person, his *Dignity*, with the *Baronies* thereunto belonging, all intirely together. But after the Year One thousand seven hundred, no *Landgrave* or *Cassique* shall have power to *Alienate*, *Sell*, *Make over*, or *Lett* the *Hereditary Baronies* of his *Dignity*, or any part thereof, otherwise then as in §. 18, but they shall all intirely, with the *Dignity* thereunto belonging, *Descend* unto his *Heirs Males*; and for want of *Heirs Male*, all intirely and undivided, to the next *Heir general*; and for want of such *Heirs*, shall devolve into the Hands of the *Lords Proprietors*.

§. 12. That the due number of *Landgraves* and *Cassiques* may be always kept up, if upon the *Devolution* of any *Landgraveship* or *Cassiqueship*, the *Palatine's Court* shall not settle the devolved *Dignity*, with the *Baronies* thereunto annexed, before the second biennial *Parliament* after such *Devolution*, the next biennial *Parliament* but one after such *Devolution* shall have power to make any one *Landgrave* or *Cassique* in the room of him, who dying without *Heirs*, his *Dignity* and *Baronies* devolved.

§. 13. No one Person shall have more than one *Dignity*, with the *Signiories* or *Baronies* thereunto belonging. But whensoever it shall happen, that any one who is already *Proprietor*, *Landgrave*, or *Cassique*, shall have any of these *Dignities* descend to him by *Inheritance*, it shall be at his *Choice* to keep which of the *Dignities*, with the *Lands* annexed, he shall like best; but shall leave the other, with the *Lands* annexed, to be enjoyed by him, who not being his *Heir Apparent*, and certain *Successor* to his present *Dignity*, is next of Blood.

Whoso-

Whosoever by Right of Inheritance shall come to be Landgrave or Casique, shall take the Name and Arms of his Predecessor in that Dignity, to be from thenceforth the Name and Arms of his Family and their Posterity. §. 14.

Since the Dignity of Proprietor, Landgrave, or Casique, cannot be divided, and the Signiories or Baronies thereunto annexed must for ever all entirely descend with, and accompany that Dignity, whensoever for want of Heirs Male it shall descend on the Issue Female, the eldest Daughter and her Heirs shall be preferred, and in the Inheritance of those Dignities, and in the Signiories or Baronies annexed, there shall be no Cobeirs. §. 15.

In every Signiory, Barony, and Mannor, the respective Lord shall have power in his own Name to hold Court-Leet there, for Trying of all Causes both Civil and Criminal; but where it shall concern any Person being no Inhabitant, Vassal, or Leetman of the said Signiory, Barony, or Mannor, he upon paying down of forty Shillings to the Lords Proprietors use, shall have an Appeal from the Signiory or Barony Court, to the County Court, and from the Mannor Court to the Precinct Court. §. 16.

Every Mannor shall consist of not less than three thousand Acres, and not above twelve thousand Acres in one entire Piece and Colony; but any three thousand Acres or more in one Piece, and the Possession of one Man, shall not be a Mannor, unless it be Constituted a Mannor by the Grant of the Palatine's Court. §. 17.

The Lords of Signiories and Baronies shall have power onely of granting Estates not exceeding three Lives or thirty one Years, in two Thirds of the said Signiories or Baronies, and the remaining Third shall be always Demesne. §. 18.

Any Lord of a Mannor may Alienate, Sell, or Dispose to any other Person and his Heirs for ever, his Mannor, all entirely together, with all the Priviledges and Leetmen thereunto belonging, so far forth as any other Colony Lands, but no Grant of any part thereof, either §. 19.

either in Fee, or for any longer Term than *three Lives*, or *one and twenty Years*, shall be good against the next Heir.

- §. 20. No *Mannor*, for want of Issue Male, shall be divided amongst Coheirs; but the *Mannor*, if there be but one, shall all entirely descend to the eldest Daughter and her Heirs. If there be more *Mannors* then one, the eldest Daughter first shall have her *choise*; the second next, and so on, beginning again at the eldest, till all the *Mannors* be taken up; that so the Priviledges which belong to *Mannors* being *indivisible*; the Lands of the *Mannors* to which they are annexed, may be kept entire, and the *Mannor* not loose those Priviledges, which upon parcelling out to several Owners must necessarily cease.
- §. 21. Every Lord of a *Mannor*, within his *Mannor*, shall have all the Powers, Jurisdctions, and Priviledges, which a *Landgrave* or *Cassique* hath in his *Baronies*.
- §. 22. In every *Signiory*, *Barony*, and *Mannor*, all the *Leet-men* shall be under the Jurisdiction of the respective Lords of the said *Signiory*, *Barony*, or *Mannor*, without Appeal from him. Nor shall any *Leet-man* or *Leet-woman* have liberty to go off from the Land of their particular Lord, and live any where else, without Licence obtained from their said Lord, under Hand and Seal.
- §. 23. All the Children of *Leet-men* shall be *Leet-men*, and so to all Generations.
- §. 24. No Man shall be capable of having a *Court-Leet* or *Leet-Men*, but a *Proprietor*, *Landgrave*, *Cassique*, or Lord of a *Mannor*.
- §. 25. Whoever shall voluntarily Enter himself a *Leet-man* in the Registry of the County Court, shall be a *Leet-man*.
- §. 26. Whoever is Lord of *Leet-men*, shall upon the Marriage of a *Leet-man* or *Leet-woman* of his, give them ten Acres of Land for their Lives, they paying to him therefore not more than one eighth part of all the yearly Produce and Growth of the said ten Acres.

No *Landgrave* or *Cassique* shall be Tried for any Criminal Cause, §. 27.
in any but the *Chief Justice's Court*, and that by a Jury of his *Peers*.

There shall be eight *Supreme Courts*. The first called *The Palatine's* §. 28.
Court, consisting of the *Palatine*, and the other seven *Proprietors*. The other seven *Courts* of the other seven great Officers, shall consist each of them of a *Proprietor*, and six *Councillors* added to him. Under each of these later seven *Courts* shall be a *Colledge* of twelve *Assistants*. The twelve *Assistants* of the several *Colledges* shall be chosen; two out of the *Landgraves*, *Cassiques*, or eldest Sons of *Proprietors*, by the *Palatine's Court*; two out of the *Landgraves*, by the *Landgraves Chamber*; two out of the *Cassiques*, by the *Cassiques Chamber*; four more of the twelve shall be chosen by the *Commons Chamber*, out of such as have been, or are *Members* of *Parliament*, *Sheriffs*, or *Justices* of the *County Court*, or the younger Sons of *Proprietors*, or eldest Sons of *Landgraves* or *Cassiques*; the two other shall be chosen by the *Palatine's Court*, out of the same sort of Persons out of which the *Commons Chamber* is to chuse.

Out of these *Colledges* shall be chosen at first by the *Palatine's* §. 29.
Court, six *Councillors*, to be joyned with each *Proprietor* in his *Court*; of which six one shall be of those who were chosen into any of the *Colledges* by the *Palatine's Court*, out of the *Landgraves*, *Cassiques*, or eldest Sons of *Proprietors*, one out of those who were chosen by the *Landgraves Chamber*, and one out of those who were chosen by the *Cassiques Chamber*, two out of those who were chosen by the *Commons Chamber*, and one out of those who were chosen by the *Palatine's Court*, out of the *Proprietors* younger Sons, or eldest Sons of *Landgraves*, *Cassiques*, or *Commons*, Qualified as aforesaid.

When it shall happen that any *Councillor* dies, and thereby §. 30
there is a *Vacancy*, the *Grand Council* shall have power to remove any *Councillor* that is willing to be removed out of any of the *Proprietors Courts* to fill up the *Vacancy*, provided they take a Man of the same *Degree* and *Choite* the other was of, whose vacant Place is to be filled up. But if no *Councillor* consent to be removed,

or upon such Remove, the last remaining vacant Place in any of the *Proprietors Courts*, shall be filled up by the choise of the *Grand Council*, who shall have power to remove out of any of the *Colledges*, any Assistant, who is of the same *Degree* and *Choice* that *Councilor* was of, into whose vacant Place he is to succeed. The *Grand Council* also shall have power to remove any *Assistant* that is willing, out of one *Colledge* into another, provided he be of the same *Degree* and *Choice*. But the last remaining vacant Place in any *Colledge*, shall be filled up by the same *Choice*, and out of the same *Degree* of Persons the *Assistant* was of, who is dead or removed. No Place shall be vacant in any *Proprietors Court* above six Months. No Place shall be vacant in any *Colledge* longer then the next *Session* of *Parliament*.

§. 31. No Man, being a Member of the *Grand Council*, or of any of the seven *Colledges*, shall be turned out but for Misdemeanor, of which the *Grand Council* shall be Judge, and the Vacancy of the Person so put out shall be filled, not by the Election of the *Grand Council*, but by those who first chose him, and out of the same *Degree* he was of who is expelled. But it is not hereby to be understood, that the *Grand Council* hath any power to turn out any one of the *Lords Proprietors* or their *Deputies*, the *Lords Proprietors* having in themselves an inherent original Right.

§. 32. All Elections in the *Parliament*, in the several *Chambers* of the *Parliament*, and in the *Grand Council*, shall be Passed by Balloting.

§. 33. The *Palatine's Court* shall consist of the *Palatine*, and seven *Proprietors*, wherein nothing shall be acted without the Presence and Consent of the *Palatine* or his *Deputy*, and three others of the *Proprietors* or their *Deputies*. This Court shall have power to call *Parliaments*, to pardon all Offences, to make Elections of all Officers in the *Proprietors* dispose, and to nominate and appoint *Port-Towns*: And also shall have power by their Order to the *Treasurer* to dispose of all *Publick Treasure*, excepting Money granted by the *Parliament*, and by them directed to some particular publick Use: And also shall have a *Negative* upon all Acts, Orders, Votes, and
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Judgments, of the *Grand Council* and the *Parliament*, except onely as in §. 6. and 12. And shall have all the Powers granted to the *Lords Proprietors* by their *Patent* from OUR SOVERAIGN LORD THE KING, except in such things as are limited by these FUNDAMENTAL CONSTITUTIONS.

The *Palatine* himself, when he in Person shall be either in the *Army*, or in any of the *Proprietors Courts*, shall then have the Power of *General*, or of that *Proprietor* in whose Court he is then present, and the *Proprietor* in whose Court the *Palatine* then Presides, shall during his presence there be but as one of the *Council*. §. 34.

The *Chancellor's Court*, consisting of one of the *Proprietors* and his six ^{or} *Chancellors*, who shall be called *Vice-Chancellors*, shall have the custody of the *Seal* of the *Palatinate*, under which all *Charters* of Lands or otherwise, *Commissions* and *Grants* of the *Palatine's Court*, shall pass. And it shall not be lawful to put the *Seal* of the *Palatinate* to any *Writing* which is not Signed by the *Palatine* or his *Deputy*, and three other *Proprietors* or their *Deputies*. To this Court also belongs all *State Matters*, *Dispatches*, and *Treaties* with the neighbor *Indians*. To this Court also belongs all *Invasions* of the Law, of *Liberty* of *Conscience*, and all *Disturbances* of the *Publick Peace* upon pretence of *Religion*, as also the *Licence* of *Printing*. The twelve *Assistants* belonging to this Court, shall be called *Recorders*. §. 35.

Whatever passes under the *Seal* of the *Palatinate*, shall be Registered in that *Proprietor's Court* to which the Matter therein contained belongs. §. 36.

The *Chancellor* or his *Deputy* shall be always *Speaker* in *Parliament*, and *President* of the *Grand Council*, and in his and his *Deputy's* absence, one of his *Vice-Chancellors*. §. 37.

The *Chief Justice's Court*, consisting of one of the *Proprietors* and his six ^{or} *Chancellors*, who shall be called *Justices of the Bench*, shall Judge all *Appeals* in *Cases* both *Civil* and *Criminal*, except all such *Cases*. §. 38.

Cases as shall be under the Jurisdiction and Cognizance of any other of the *Proprietors Courts*, which shall be Tried in those Courts respectively. The Government and regulation of the *Registries* of Writings and Contracts, shall belong to the Jurisdiction of this Court. The twelve *Assistants* of this Court shall be called *Masters*.

§. 39. The *Constables Court*, consisting of one of the *Proprietors* and his six *Councillors*, who shall be called *Marshals*, shall order and determine of all *Military Affairs* by Land, and all Land-Forces, Arms, Ammunition, Artillery, Garrisons and Forts, &c. and whatever belongs unto War. His twelve *Assistants* shall be called *Lieutenant-Generals*.

§. 40. In time of actual War the *Constable*, whilst he is in the Army, shall be *General* of the Army, and the six *Councillors*, or such of them as the *Palatine's Court* shall for that time or Service appoint, shall be the immediate great Officers under him, and the *Lieutenant-Generals* next to them.

§. 41. The *Admiral's Court*, consisting of one of the *Proprietors* and his six *Councillors* called *Consuls*, shall have the care and inspection over all Ports, Moles, and Navigable Rivers, so far as the Tide flows, and also all the publick Shipping of *Carolina*, and Stores thereunto belonging, and all *Maritime Affairs*. This Court also shall have the Power of the *Court of Admiralty*; and shall have power to *Constitute Judges* in Port-Towns, to Try Cases belonging to *Law-Merchant*, as shall be most convenient for Trade. The twelve *Assistants* belonging to this Court shall be called *Proconsuls*.

§. 42. In time of actual War, the *Admiral* whilst he is at Sea, shall Command in Chief, and his six *Councillors*, or such of them as the *Palatine's Court* shall for that time and Service appoint, shall be the immediate great Officers under him, and the *Proconsuls* next to them.

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The *Treasurer's Court*, consisting of a *Proprietor* and his six *Councillors*, called *Under-Treasurers*, shall take care of all Matters that concern the Publick Revenue and Treasury. The twelve *Assistants* shall be called *Auditors*. §. 43.

The *High Steward's Court*, consisting of a *Proprietor* and his six *Councillors*, called *Comptrollers*, shall have the care of all Foreign and Domestick Trade, Manufactures, publick Buildings, Workhouses, Highways, Passages by Water above the Flood of the Tide, Drains, Sewers and Banks against Inundations, Bridges, Post, Carriers, Fairs, Markets, Corruption or Infection of the common Air or Water, and all things in order to the publick Commerce and Health; also Setting out and Surveying of Lands; and also Setting out and appointing Places for Towns to be built on in the Precincts, and the prescribing and determining the Figure and bigness of the said Towns, according to such Models as the said Court shall order, contrary or differing from which Models it shall not be lawful for any one to Build in any Town. This Court shall have power also to make any publick Building, or any new Highway, or enlarge any old Highway, upon any Man's Land whatsoever, as also to make Cuts, Channels, Banks, Locks, and Bridges, for making Rivers Navigable, or for Draining Fens, or any other publick Use. The Damage the Owner of such Lands (on or through which any such publick thing shall be made) shall receive thereby, shall be valued, and Satisfaction made by such ways as the *Grand Council* shall appoint. The twelve *Assistants* belonging to this Court, shall be called *Surveyors*. §. 44.

The *Chamberlain's Court*, consisting of a *Proprietor* and his six *Councillors*, called *Vice-Chamberlains*, shall have the care of all Ceremonies, Precedency, Heraldry, Reception of publick Messengers, Pedegrees, the Registry of all Births, Burials, and Marriages, Legitimation, and all Cases concerning Matrimony, or arising from it; and shall also have power to regulate all Fashions, Habits, Badges, Games, and Sports. To this Court also it shall belong, to Convocate the *Grand Council*. The twelve *Assistants* belonging to this Court, shall be called *Provosts*. §. 45.

- §. 46. All Causes belonging to, or under the Jurisdiction of any of the *Proprietors Courts*, shall in them respectively be Tried, and ultimately Determined, without any farther Appeal.
- §. 47. The *Proprietors Courts* shall have a power to mitigate all Fines, and suspend all Executions in Criminal Causes, either before or after Sentence in any of the other *inferiour Courts* respectively.
- §. 48. In all Debates, Hearings, or Trials, in any of the *Proprietors Courts*, the twelve *Assistants* belonging to the said Courts respectively, shall have liberty to be present, but shall not interpose, unless their Opinions be required, nor have any *Vote* at all; but their Business shall be, by the direction of the respective Courts, to prepare such Business as shall be committed to them; as also to bear such *Offices*, and dispatch such *Affairs*, either where the Court is kept, or elsewhere, as the Court shall think fit.
- §. 49. In all the *Proprietors Courts*, the *Proprietor*, and any three of his Councillors shall make a *Quorum*; Provided always, that for the better dispatch of Business, it shall be in the power of the *Palatine's Court* to direct what sort of Causes shall be Heard and Determined by a *Quorum* of any three.
- §. 50. The *Grand Council* shall consist of the *Palatine* and seven *Proprietors*, and the forty two Councillors of the several *Proprietors Courts*, who shall have power to Determine any Controversies that may arise between any of the *Proprietors Courts*, about their respective *Jurisdictions*, or between the Members of the same Court, about their *Manner and Methods of Proceeding*: To make Peace and War, Leagues, Treaties, &c. with any of the neighbor *Indians*: To Issue out their general Orders to the *Constable's* and *Admiral's Courts*, for the Raising, Disposing, or Disbanding the *Forces* by Land or by Sea.
- §. 51. The *Grand Council* shall prepare all Matters to be proposed in Parliament. Nor shall any Matter whatsoever be proposed in Parliament, but what hath first passed the *Grand Council*; which
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after having been read three several Days in the *Parliament*, shall by majority of Votes be Passed or rejected.

The *Grand Council* shall always be Judges of all Causes and Appeals that concern the *Palatine*, or any of the *Lords Proprietors*, or any *Councillor* of any *Proprietors Court*, in any Cause which otherwise should have been Tried in the Court in which the said *Councillor* is Judge himself. §. 52.

The *Grand Council* by their Warrants to the *Treasurer's Court*, shall dispose of all the Money given by the *Parliament*, and by them directed to any particular publick Use. §. 53.

The *Quorum* of the *Grand Council* shall be thirteen, whereof a *Proprietor* or his *Deputy* shall be always one. §. 54.

The *Grand Council* shall meet the first *Tuesday* in every Month, and as much oftner as either they shall think fit, or they shall be Convocated by the *Chamberlain's Court*. §. 55.

The *Palatine*, or any of the *Lords Proprietors*, shall have power under Hand and Seal, to be Registred in the *Grand Council* to make a *Deputy*, who shall have the same power to all intents and purposes as he himself who deposes him, except in confirming Acts of *Parliament*, as in §. 76. and except also in nominating and chusing *Landgraves* and *Cassiques*, as in §. 10. All such *Deputations* shall cease and determine at the end of four Years, and at any time shall be revocable at the pleasure of the *Deputator*. §. 56.

No *Deputy* of any *Proprietor* shall have any power whilst the *Deputator* is in any part of *Carolina*, except the *Proprietor* whose *Deputy* he is, be a *Minor*. §. 57.

During the *Minority* of any *Proprietor*, his *Guardian* shall have power to *Constitute* and appoint his *Deputy*. §. 58.

The eldest of the *Lords Proprietors* who shall be personally in *Carolina*, shall of course be the *Palatine's Deputy*; and if no *Proprietor* §. 59.
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tor be in *Carolina*, he shall chuse his *Deputy* out of the *Heirs Apparent* of any of the *Proprietors*, if any such be there; and if there be no *Heir Apparent* of any of the *Lords Proprietors* above one and twenty Years old in *Carolina*, then he shall chuse for *Deputy* any one of the *Landgraves* of the *Grand Council*; and till he have by *Deputation* under Hand and Seal chosen any one of the forementioned *Heirs Apparent* or *Landgraves* to be his *Deputy*, the eldest Man of the *Landgraves*, and for want of a *Landgrave*, the eldest Man of the *Cassiques* who shall be personally in *Carolina*, shall of course be his *Deputy*.

§. 60. Each *Proprietor's Deputy* shall be always one of his own six *Councillors* respectively; and in case any of the *Proprietors* hath not in his absence out of *Carolina* a *Deputy*, Commissioned under his Hand and Seal, the eldest *Nobleman* of his Court shall of course be his *Deputy*.

§. 61. In every *County* there shall be a *Court*, consisting of a *Sheriff* and four *Justices* of the *County*, for every *Precinct* one. The *Sheriff* shall be an *Inhabitant* of the *County*, and have at least five hundred Acres of *Freehold* within the said *County*; and the *Justices* shall be *Inhabitants*, and have each of them five hundred Acres apiece *Freehold* within the *Precinct* for which they serve respectively. These five shall be chosen and Commissioned from time to time by the *Palatine's Court*.

§. 62. For any *Personal Causes* exceeding the value of two hundred Pounds Sterling, or in Title of *Land*, or in any *Criminal Cause*, either Party upon paying twenty Pounds Sterling to the *Lords Proprietors* use, shall have liberty of *Appeal* from the *County Court* unto the respective *Proprietor's Court*.

§. 63. In every *Precinct* there shall be a *Court*, consisting of a *Steward* and four *Justices* of the *Precinct*, being *Inhabitants*, and having three hundred Acres of *Freehold* within the said *Precinct*, who shall Judge all *Criminal Causes*, except for *Treason*, *Murther*, and any other Offences punishable with *Death*, and except all *Criminal Causes* of the *Nobility*; and shall Judge also all *Civil Causes* whatsoever

ever; and in all personal Actions, not exceeding fifty Pounds Sterling, without *Appeal*: But where the Cause shall exceed that value, or concern a Title of Land, and in all Criminal Causes, there either Party, upon paying five Pounds Sterling to the Lords Proprietors use, shall have liberty of *Appeal* to the County Court.

No Cause shall be *twice Tried* in any one Court, upon any reason or pretence whatsoever. §. 64.

For *Treason, Murther*, and all other Offences punishable with Death, there shall be a Commission, twice a year at least, granted unto one, or more Members of the *Grand Council* or *Colledges*, who shall come as itinerant Judges to the several Counties, and with the Sheriff and four Justices shall hold *Aßizes* to Judge all such Causes: But upon paying of fifty Pounds Sterling to the Lords Proprietors use, there shall be liberty of *Appeal* to the respective Proprietor's Court. §. 65.

The *Grand Jury* at the several *Aßizes*, shall upon their Oaths, and under their Hands and Seals, deliver in to the itinerant Judges, a *Presentment* of such Grievances, Misdemeanors, Exigences, or Defects, which they think necessary for the publick good of the County; which *Presentment* shall by the itinerant Judges; at the end of their Circuit, be delivered in to the *Grand Council* at their next Sitting. And whatsoever therein concerns the Execution of Laws already made, the several Proprietors Courts in the Matters belonging to each of them respectively shall take Cognizance of it, and give such order about it, as shall be effectual for the due Execution of the Laws. But whatever concerns the making of any new Law, shall be referred to the several respective Courts to which that Matter belongs, and be by them prepared and brought to the *Grand Council*. §. 66.

For *Terms*, there shall be Quarterly such a certain number of Days, not exceeding one and twenty at any one time, as the several respective Courts shall appoint. The time for the beginning of the Term in the *Precinct Court*, shall be the first Monday in January, April, July, and October; in the County Court, the first Monday
E in §. 67.

in February, May, August, and November; and in the Proprietors Courts, the first Monday in March, June, September, and December.

§. 68. In the Precinct Court no Man shall be a Jury-man under fifty Acres of Freehold. In the County Court, or at the Assizes, no Man shall be a Grand Jury-man under three hundred Acres of Freehold; and no Man shall be a Petty Jury-man under two hundred Acres of Freehold. In the Proprietors Courts no Man shall be a Jury-man under five hundred Acres of Freehold.

§. 69. Every Jury shall consist of twelve Men; and it shall not be necessary they should all agree, but the Verdict shall be according to the Consent of the Majority.

§. 70. It shall be a base and vile thing to Plead for Money or Reward; nor shall any one (except he be a near Kinsman, not farther off than Cousin-german to the Party concerned) be permitted to Plead another Man's Cause, till before the Judge in open Court he hath taken an Oath, that he doth not Plead for Money or Reward, nor hath nor will receive, nor directly nor indirectly Bargained with the Party whose Cause he is going to Plead, for Money or any other Reward for Pleading his Cause.

§. 71. There shall be a Parliament, consisting of the Proprietors or their Deputies, the Landgraves and Cassiques, and one Freeholder out of every Precinct, to be chosen by the Freeholders of the said Precinct respectively. They shall Sit altogether in one Room, and have every Member one Vote.

§. 72. No Man shall be chosen a Member of Parliament, who hath less than five hundred Acres of Freehold within the Precinct for which he is chosen; nor shall any have a Vote in chusing the said Member that hath less than fifty Acres of Freehold within the said Precinct.

§. 73. A new Parliament shall be Assembled the first Monday of the Month of November every second Year, and shall meet and Sit in the Town they last Sat in, without any Summons, unless by the
Palatine's

Palatine's Court they be Summoned to meet at any other Place. And if there shall be any occasion of a *Parliament* in these Intervals, it shall be in the power of the *Palatine's Court* to Assemble them in forty Days notice, and at such Time and Place as the said Court shall think fit; and the *Palatine's Court* shall have power to Dissolve the said *Parliament* when they shall think fit.

At the opening of every *Parliament*, the first thing that shall be done, shall be the reading of these FUNDAMENTAL CONSTITUTIONS, which the *Palatine* and *Proprietors*, and the rest of the *Members* then present, shall *Subscribe*. Nor shall any Person whatsoever Sit or Vote in the *Parliament*, till he hath that Session Subscribed these FUNDAMENTAL CONSTITUTIONS, in a Book kept for that purpose by the Clerk of the *Parliament*. §. 74.

In order to the due Election of *Members* for the Biennial *Parliament*, it shall be lawful for the Freeholders of the respective *Precincts* to meet the first Tuesday in September every two Years, in the same Town or Place that they last met in to chuse *Parliament-men*, and there chuse those *Members* that are to Sit the next November following, unless the *Steward* of the *Precinct* shall by sufficient notice thirty Days before, appoint some other Place for their Meeting, in order to the Election. §. 75.

No Act or Order of *Parliament* shall be of any force, unless it be Ratified in open *Parliament* during the same Session, by the *Palatine* or his *Deputy*, and three more of the *Lords Proprietors* and their *Deputies*, and then not to continue longer in force but until the next Biennial *Parliament*, unless in the mean time it be Ratified under the Hands and Seals of the *Palatine* himself, and three more of the *Lords Proprietors* themselves, and by their Order publish'd at the next Biennial *Parliament*. §. 76.

Any *Proprietor* or his *Deputy* may Enter his *Protestation* against any Act of the *Parliament*, before the *Palatine* or his *Deputy's* Consent be given as aforesaid, if he shall conceive the said Act to be contrary to this Establishment, or any of these FUNDAMENTAL MEN- §. 77.

MENTAL CONSTITUTIONS of the Government. And in such case after a full and free Debate, the several *Estates* shall retire into four several *Chambers*, the *Palatine* and *Proprietors* into one, the *Landgraves* into another, the *Cassiques* into another, and those chosen by the *Precincts* into a fourth; and if the major part of any of the four *Estates* shall Vote that the Law is not agreeable to this Establishment, and these FUNDAMENTAL CONSTITUTIONS of the Government, then it shall pass no farther, but be as if it had never been proposed.

§. 78. The *Quorum* of the *Parliament* shall be one half of those who are Members, and capable of Sitting in the House that present Session of *Parliament*. The *Quorum* of each of the *Chambers* of *Parliament*, shall be one half of the Members of that Chamber.

§. 79. To avoid multiplicity of Laws, which by degrees always change the right Foundations of the original Government, all *Acts* of *Parliament* whatsoever, in whatsoever Form Passed or Enacted, shall at the end of a hundred Years after their Enacting, respectively cease and determine of themselves, and without any *Repeal* become null and void, as if no such Acts or Laws had ever been made.

§. 80. Since multiplicity of *Comments*, as well as of *Laws*, have great inconveniences, and serve onely to obscure and perplex. All manner of *Comments* and *Expositions* on any part of these FUNDAMENTAL CONSTITUTIONS, or any part of the *Common* or *Statute Law* of *Carolina*, are absolutely *Prohibited*.

§. 81. There shall be a *Registry* in every *Precinct*, wherein shall be Enrolled all *Deeds*, *Leases*, *Judgments*, *Mortgages*, and other *Conveyances*, which may concern any of the *Land* within the said *Precinct*; and all such *Conveyances* not so Entred or Registred, shall not be of force against any Person not Party to the said *Contract* or *Conveyance*.

§. 82. No Man shall be *Register* of any *Precinct*, who hath not at least three hundred Acres of *Freehold* within the said *Precinct*.

The

The *Freeholders* of every *Precinct* shall nominate three Men, out of which three the *Chief Justice's Court* shall chuse and Commission one to be *Register* of the said *Precinct*, whilst he shall well behave himself. §. 83.

There shall be a *Registry* in every *Signiory*, *Barony*, and *Colony*, wherein shall be Recorded all the *Births*, *Marriages*, and *Deaths*, that shall happen within the respective *Signiories*, *Baronies*, and *Colonies*. §. 84.

No Man shall be *Register* of a *Colony* that hath not above fifty Acres of *Frechold* within the said *Colony*. §. 85.

The time of every ones *Age* that is born in *Carolina*, shall be reckoned from the Day that his *Birth* is Entred in the *Registry*, and not before. §. 86.

No *Marriage* shall be lawful, whatever *Contract* and Ceremony they have used, till both the Parties mutually own it before the *Register* of the Place where they were Married, and he Register it, with the Names of the Father and Mother of each Party. §. 87.

No Man shall Administer to the Goods, or have right to them, or enter upon the Estate of any Person deceased, till his *Death* be Registred in the respective *Registry*. §. 88.

He that doth not Enter in the respective *Registry*, the *Birth* or *Death* of any Person that is born or dies in his House or Ground, shall pay to the said *Register* one Shilling per Week for each such Neglect, reckoning from the time of each *Birth* or *Death* respectively, to the time of Registering it. §. 89.

In like manner the *Births*, *Marriages*, and *Deaths* of the *Lords Proprietors*, *Landgraves*, and *Cassiques*, shall be Registred in the *Chamberlain's Court*. §. 90.

- §. 91. There shall be in every *Colony* one *Constable*, to be chosen annually by the Freeholders of the *Colony*: His Estate shall be above a hundred Acres of Freehold within the said *Colony*, and such subordinate *Officers* appointed for his Assistance, as the *County Court* shall find requisite, and shall be established by the said *County Court*. The Election of the subordinate annual *Officers* shall be also in the Freeholders of the *Colony*.
- §. 92. All *Towns Incorporate* shall be Governed by a *Mayor*, twelve *Aldermen*, and twenty four of the *Common-Council*. The said *Common-Council* shall be chosen by the present *Housholders* of the said *Town*; the *Aldermen* shall be chosen out of the *Common-Council*, and the *Mayor* out of the *Aldermen* by the *Palatine's Court*.
- §. 93. It being of great consequence to the *Plantation*, that *Port-Towns* should be built and preserved; Therefore whosoever shall lade or unlade any *Commodity* at any other Place but a *Port-Town*, shall forfeit to the *Lords Proprietors* for each *Tun* so laden or unladen, the Sum of ten Pounds *Sterling*, except onely such Goods as the *Palatine's Court* shall Licence to be laden or unladen elsewhere.
- §. 94. The first *Port-Town* upon every *River*, shall be in a *Colony*, and be a *Port-Town* for ever.
- §. 95. No Man shall be permitted to be a *Freeman* of *Carolina*, or to have any Estate or Habitation within it, that doth not acknowledge a *G O D*, and that *G O D* is publicly and solemnly to be *Worshipped*.
- §. 96. As the *Countrey* comes to be sufficiently Planted and Distributed into fit Divisions, it shall belong to the *Parliament* to take care for the building of *Churches*, and the publick Maintenance of *Divines*, to be employed in the Exercise of *Religion*, according to the *Church of England*, which being the onely true and *Orthodox*, and the *National Religion* of all the King's Dominions, is so also of *Carolina*, and therefore it alone shall be allowed to receive publick Maintenance by Grant of *Parliament*.

But

But since the *Natives* of that Place, who will be concerned in our *Plantation*, are utterly Strangers to *Christianity*, whose Idolatry, Ignorance, or Mistake, gives us no right to expel, or use them ill; and those who remove from other Parts to Plant there, will unavoidably be of different Opinions concerning Matters of Religion, the liberty whereof they will expect to have allowed them, and it will not be reasonable for us on this account to keep them out; that *Civil Peace* may be maintained amidst the diversity of Opinions, and our *Agreement* and *Compact* with all Men may be duly and faithfully observed, the violation whereof upon what pretence soever, cannot be without great offence to *Almighty God*, and great scandal to the true Religion which we profess; and also that *Jews*, *Heathens*, and other *Dissenters* from the purity of *Christian Religion*, may not be scared and kept at a distance from it, but by having an opportunity of acquainting themselves with the truth and reasonableness of its *Doctrines*, and the peaceableness and inoffensiveness of its *Professors*, may by good usage and persuasion, and all those convincing Methods of gentleness and meekness, suitable to the Rules and Design of the *Gospel*, be won over to embrace, and unfeignedly receive the Truth; Therefore any seven, or more Persons agreeing in any Religion, shall Constitute a Church or Profession, to which they shall give some Name, to distinguish it from others. §. 97.

The Terms of Admittance and Communion with any Church or Profession, shall be written in a Book, and therein be Subscribed by all the Members of the said Church or Profession; which Book shall be kept by the publick Register of the Precinct where they reside. §. 98.

The Time of every ones Subscription and Admittance, shall be Dated in the said Book or religious Record. §. 99.

In the Terms of Communion of every Church or Profession, these following shall be three, without which no Agreement or Assembly of Men, upon pretence of Religion, shall be accounted a Church or Profession, within these Rules: §. 100.

I. That

I. *That there is a G O D.*

II. *That G O D is publickly to be Worshipped.*

III. *That it is lawful, and the Duty of every Man, being thereunto called by those that Govern, to bear Witneß to Truth; and that every Church or Profession shall in their Terms of Communion set down the external Way whereby they witneß a Truth as in the presence of G O D, whether it be by laying Hands on, or kissing the Bible, as in the Church of England, or by holding up the Hand, or any other sensible way.*

§. 101. No Person above seventeen Years of Age, shall have any benefit or protection of the Law, or be capable of any Place of Profit or Honor, who is not a Member of some Church or Profession, having his Name Recorded in some one, and but one religious Record at once.

§. 102. No Person of any other Church or Profession shall disturb or molest any religious Assembly.

§. 103. No Person whatsoever shall speak any thing in their religious Assembly, irreverently or seditiously of the Government or Governors, or State-Matters.

§. 104. Any Person Subscribing the Terms of Communion in the Record of the said Church or Profession before the Precinct Register, and any five Members of the said Church or Profession, shall be thereby made a Member of the said Church or Profession.

§. 105. Any Person striking out his own Name out of any religious Record, or his Name being struck out by any Officer thereunto authorized by each Church or Profession respectively, shall cease to be a Member of that Church or Profession.

§. 106. No Man shall use any reproachful, reviling, or abusive Language, against the Religion of any Church or Profession, that being the certain way of disturbing the Peace, and of hindring the Conversion of any to the Truth, by engaging them in Quarrels and Animosities, to the hatred of the Professors and that Profession, which otherwise they might be brought to assent to.

Since

Since *Charity* obliges us to wish well to the *Souls* of all Men, §. 107.
and *Religion* ought to alter nothing in any Man's Civil Estate or
Right, it shall be lawful for *Slaves* as well as others, to Enter
themselves, and be of what *Church* or *Profession* any of them shall
think best, and thereof be as fully *Members* as any *Freeman*. But
yet no *Slave* shall hereby be exempted from that *Civil Dominion* his
Master hath over him, but be in all other things in the same State
and Condition he was in before.

Assemblies, upon what pretence soever of *Religion*, not ob- §. 108.
serving and performing the abovesaid Rules, shall not be
esteemed as *Churches*, but unlawful *Meetings*, and be punished as
other *Riots*.

No Person whatsoever shall *disturb*, *molest*, or *persecute* another §. 109.
for his speculative Opinions in *Religion*, or his *Way of Worship*.

Every *Freeman* of *Carolina* shall have absolute Power and Au- §. 110.
thority over his *Negro Slaves*, of what Opinion or Religion
soever.

No Cause, whether *Civil* or *Criminal*, of any *Freeman*, shall be §. 111.
Tried in any Court of Judicature, without a *Jury* of his *Peers*.

No Person whatsoever shall hold or claim any Land in *Carolina* by §. 112.
Purchase or *Gift*, or otherwise, from the *Natives* or any other
whatsoever, but meerly from and under the *Lords Proprietors*, upon
pain of forfeiture of all his Estate, moveable or immoveable, and
perpetual banishment.

Whosoever shall possess any Freehold in *Carolina*, upon what §. 113.
Title or Grant soever, shall at the farthest from and after the
Year One thousand six hundred eighty nine, pay yearly unto the
Lords Proprietors for each Acre of Land, *English Measure*, as much
fine Silver as is at this present in one *English Penny*, or the value
thereof to be as a *Chief Rent* and *Acknowledgment* to the *Lords Proprie-*
tors, their Heirs and Successors for ever. And it shall be lawful for

the *Palatine's Court* by their Officers at any time, to take a new *Survey* of any Man's Land, not to oust him of any part of his Possession, but that by such a *Survey* the just number of Acres, he possesseth may be known, and the Rent thereupon due, may be paid by him.

§. 114. All *Wrecks, Mines, Minerals, Quarries of Gemms, and Precious Stones, with Pearl-fishing, Whale-fishing, and one half of all Amber-greece, by whomsoever found, shall wholly belong to the Lords Proprietors.*

§. 115. All *Revenues and Profits* belonging to the *Lords Proprietors*, in common, shall be divided into ten Parts, whereof the *Palatine* shall have three, and each *Proprietor* one; but if the *Palatine* shall Govern by a *Deputy*, his *Deputy* shall have one of those three Tenths, and the *Palatine* the other two Tenths.

§. 116. All *Inhabitants and Freemen of Carolina* above seventeen Years of Age, and under sixty, shall be bound to bear *Arms*, and Serve as *Soldiers* whenever the *Grand Council* shall find it necessary.

§. 117. A true Copy of these FUNDAMENTAL CONSTITUTIONS shall be kept in a great Book by the *Register* of every *Precinct*, to be *Subscribed* before the said *Register*. Nor shall any Person of what Condition or Degree soever above seventeen Years old, have any Estate or Possession in *Carolina*, or protection or benefit of the Law there, who hath not before a *Precinct Register* *Subscribed* these FUNDAMENTAL CONSTITUTIONS in this Form :

I A. B. do promise to bear Faith and true Allegiance to our Sovereign Lord King CHARLES the Second^{his heirs & successors}; and will be true and faithful to the *Palatine and Lords Proprietors of Carolina*, ^{our heirs & successors} and with my utmost power will defend them, and maintain the Government according to this Establishment in these FUNDAMENTAL CONSTITUTIONS.

§. 118. Whatsoever *Alien* shall in this Form, before any *Precinct Register*
Subscribe

The Fundamental Constituions of Carolina.

25

Subscribe these FUNDAMENTAL CONSTITUTIONS, shall be thereby Naturalized.

In the same manner shall every Person at his Admittance into any Office, Subscribe these FUNDAMENTAL CONSTITUTIONS. §. 119.

These FUNDAMENTAL CONSTITUTIONS, in number a hundred and twenty, and every part thereof, shall be and remain the *sacred and unalterable Form and Rule of Government of Carolina* for ever. Witness our Hands and Seals, the first Day of March, 1669. §. 120.



Rules of Precedency.

THe Lords Proprietors, the eldest in Age first, and so in order. 1.

The eldest Sons of the Lords Proprietors, the eldest in Age first, and so in order. 2.

The Landgraves of the Grand Council, he that hath been longest of the Grand Council first, and so in order. 3.

The Casiques of the Grand Council, he that hath been longest of the Grand Council first, and so in order. 4.

The seven Commoners of the Grand Council that have been longest of the Grand Council, he that hath been longest of the Grand Council first, and so in order. 5.

The youngest Sons of Proprietors, the eldest first, and so in order. 6.

The Landgraves, the eldest in Age first, and so in order. 7.

The seven Commoners who next to those before mentioned have been longest of the Grand Council, he that hath been longest of the Grand Council first, and so in order. 8.

The Casiques, the eldest in Age first, and so in order. 9.

The seven remaining Commoners of the Grand Council, he that hath been longest of the Grand Council first, and so in order. 10.

The Male Line of the Proprietors. 11.

The rest shall be determined by the Chamberlain's Court.

FINIS.

IN SENATE
JANUARY 18 1871

REPORT
OF THE

COMMISSIONERS
OF THE
LAND OFFICE

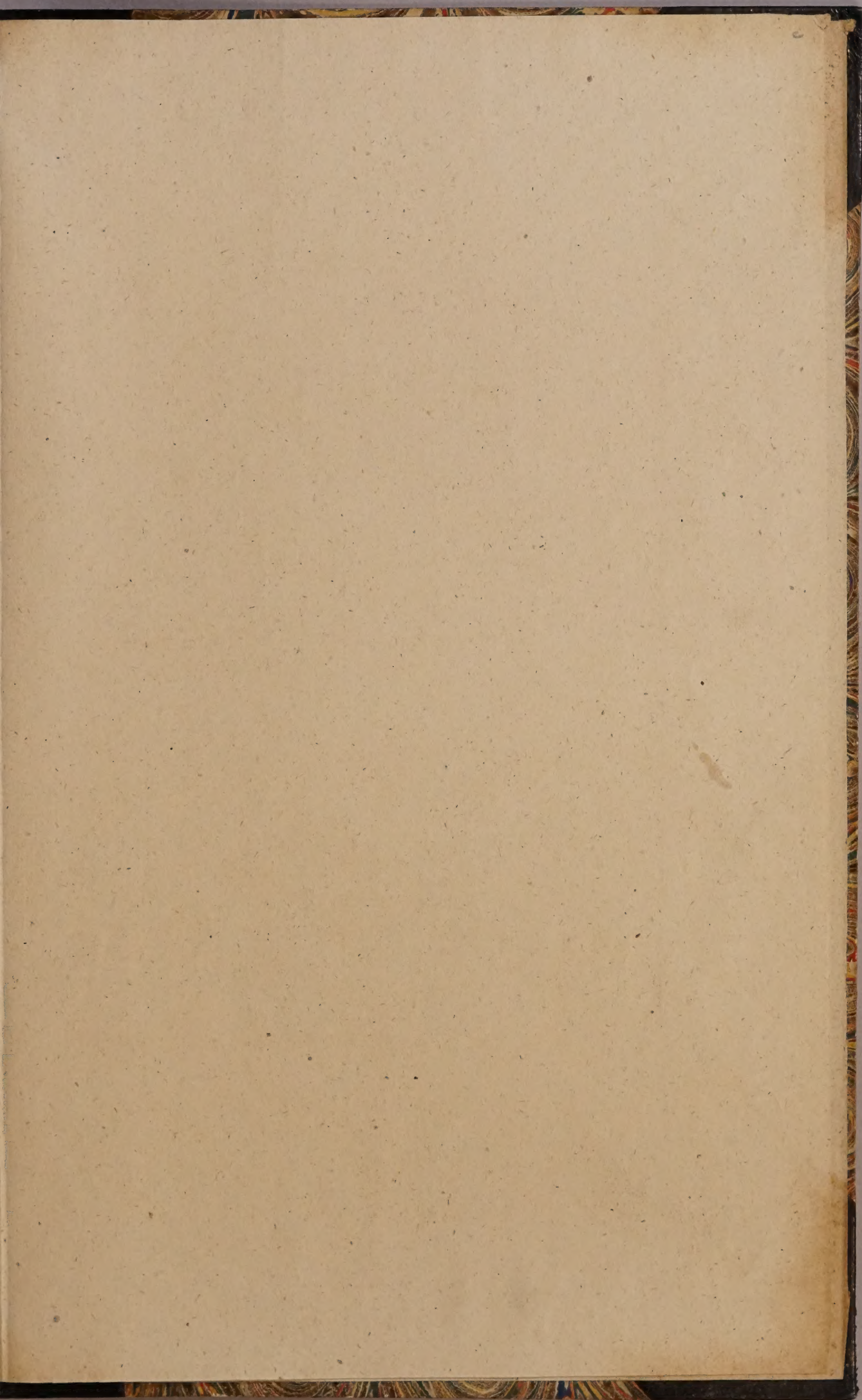
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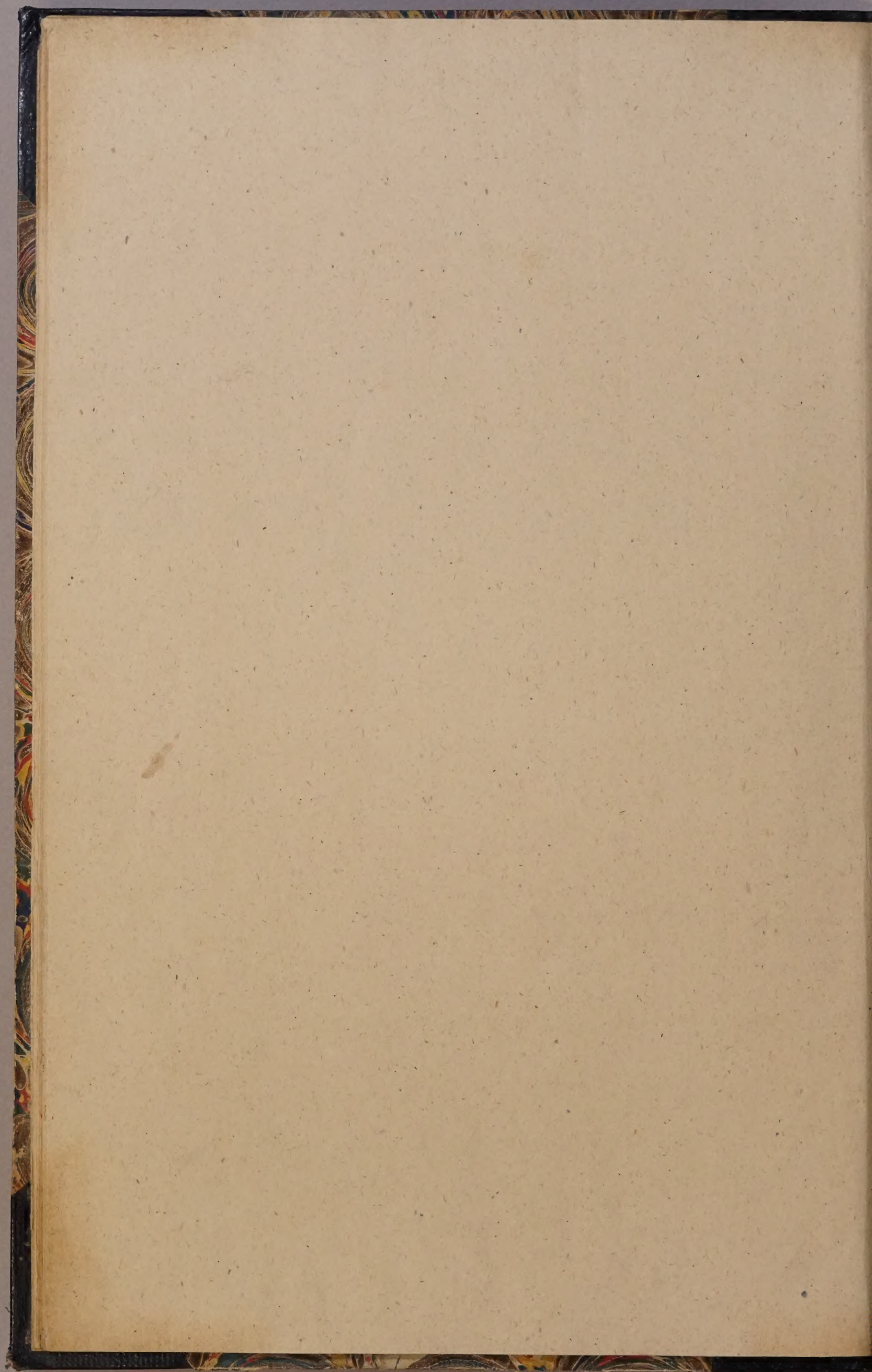
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